

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR BRUCE & CINDY ADELSTEIN		BANKRUPTCY CASE NO. 11-16053
DISTRICT IN WHICH CASE IS PENDING Northern	DIVISIONAL OFFICE Eastern	NAME OF JUDGE MORGENSTERN-CLARREN
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDINGS NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISIONAL OFFICE	NAME OF JUDGE
FILING FEE (Check one box only) <input type="checkbox"/> FEE ATTACHED <input type="checkbox"/> FEE NOT REQUIRED <input checked="" type="checkbox"/> FEE IS DEFERRED (Plaintiff is Chapter 7 Trustee)		
SIGNATURE OF ATTORNEY (OR PLAINTIFF) /s/ Julie E. Rabin		
DATE 1-12-12	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Julie E. Rabin	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also complete and file Form 104, the Adversary Proceeding Cover Sheet, if it is required by the court. In some courts, the cover sheet is not required when the adversary proceeding is filed electronically through the court's Case Management/Electronic Case Files (CM/ECF) system. (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of the court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and the defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and in the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE:)	CASE NO. 11-16053
)	
BRUCE S. ADELSTEIN)	
CINDY ADELSTEIN)	CHAPTER 7 PROCEEDINGS
18 LAUREL HILL LANE)	
PEPPER PIKE, OH 44124)	
)	
Debtor)	
)	U.S. BANKRUPTCY JUDGE
MARY ANN RABIN,)	MORGENSTERN-CLARREN
TRUSTEE-IN-BANKRUPTCY)	
55 PUBLIC SQUARE, SUITE 1510)	
CLEVELAND, OH 44113-1901)	ADVERSARY PROCEEDINGS NO.
)	
Plaintiff)	
)	
vs.)	<u>COMPLAINT TO RECOVER FUNDS</u>
)	
JOHN V. DEPALMA)	
159 CROCKER PARK BLVD.)	
SUITE 400)	
WESTLAKE, OH 44145)	
)	
and)	
)	
CHERYL DEPALMA)	
31520 BISHOPS GATE CIRCLE)	
WESTLAKE, OH 44145)	
)	
Defendants.)	

JURISDICTION

1. This adversary proceeding is brought pursuant to Bankruptcy Rule 7001.
2. This court has jurisdiction over this matter pursuant to 28 U.S.C. Section 1334(b) and (d), 28 U.S.C. Section 157(a), and General Order No. 84 of the United States District Court for the Northern District of Ohio.
3. This matter is a core matter pursuant to 28 U.S.C. Section 157(b)(2)(A),(E) and (O).
4. This adversary proceeding is brought pursuant to 11 U.S.C. Section 541 as the within subject matter is property of the estate.
5. To the extent the Court determines that the matters addressed herein are non-core matters, the Plaintiff hereby consents to the Court's entering a final order in this matter.
6. Bruce S. Adelstein and Cindy Adelstein filed a petition under chapter 7 of the United States Bankruptcy Code on July 13, 2011.
7. On or around July 13, 2011, Mary Ann Rabin was appointed Trustee.
8. On the 22nd day of July, 2008, John V. DePalma and Cheryl DePalma signed a Promissory Note in favor of Bruce S. Adelstein in the amount of Six Hundred Thousand and 00/100 Dollars (\$600,000.00) (copy attached as Exhibit A hereto).
9. As of the date of the filing of the petition, the sum of Six Hundred Thousand and 00/100 Dollars (\$600,000.00) was due on the note.
10. Said funds are property of the bankruptcy estate pursuant 11 U.S.C. Section 541.

WHEREFORE, the Plaintiff, Mary Ann Rabin, respectfully prays for judgement against John V. DePalma and Cheryl DePalma in the amount of Six Hundred Thousand and 00/100 Dollars (\$600,000.00) plus interest at the rate of six and a quarter percent (5%) from July 22, 2008.

Respectfully submitted:

/s/ Julie E. Rabin

Julie E. Rabin (0006592)

Rabin & Rabin Co., LPA

55 Public Square

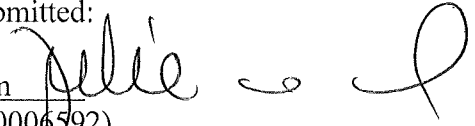
Suite 1510

Cleveland, Ohio 44113

(216) 771-8084

(216) 771-4615 facsimile

jrabin@rabinandrabin.com

A handwritten signature in cursive script, appearing to read 'Julie E. Rabin', followed by a large, stylized flourish.

COGNOVIT PROMISSORY NOTE

\$600,000.00

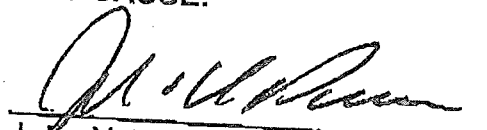
Cleveland, Ohio
July 22, 2008

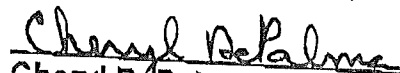
FOR VALUE RECEIVED, the undersigned, **John V. DePalma and Cheryl DePalma, his wife** (hereinafter jointly and severally referred to as the "Makers"), promise to pay to the order of **Bruce S. Adelstein** (the "Payee"), the principal sum of Six Hundred Thousand U.S. Dollars (\$600,000.00) (the "Principal Sum"), with simple interest of five percent (5%) per annum until this Cognovit Promissory Note is paid in full. Makers shall pay the Principal Sum as follows: (1) for the first forty (40) months after the date of this note, starting on August 1, 2008, Makers shall pay the Payee Seven Thousand U.S. Dollars (\$7,000.00) on the first day of each month, plus interest, and (2) for the next eighty (80) months, starting on the forty-first (41st) month after the date of this note, Makers shall pay the Payee Four Thousand U.S. Dollars (\$4,000.00) on the first day of each month, plus interest. All payments shall be made without demand, notice, default or excuse. The entire Principal Sum and all accrued interest shall be immediately due if any payment is not made strictly in accord with this schedule, time being of the essence. Provided, however, that in the event that any payment is not paid when due, Payee shall provide notice of that fact by email to jdep265@aol.com, and Makers shall have seven days to cure that default after that notice is sent. The Principal Sum and interest must be paid in full no later than August 1, 2018. These payments may be made in advance.

This Cognovit Promissory Note is deemed to be executed in and shall be governed by the laws of the State of Ohio further to a non-consumer business transaction. Makers consent to personal jurisdiction in any state or federal court in the State of Ohio, or elsewhere at the option of the Payee in connection with any claim, allegation, cause of action, or legal proceeding relating in any way to this Cognovit Promissory Note or any document or instrument or security related thereto.

The Makers hereby irrevocably authorize any attorney-at-law for the Payee to appear in any court of record in the State of Ohio or in any other state of the United States, after the payment of all or a portion of the principal of this Cognovit Promissory Note becomes due and is not timely paid when due, and waive notice, demand, and the issuing and service of process and authorize any attorney-at-law to confess judgment against the Makers in favor of the Payee or holder hereof for the amount then appearing due, plus interest, and the costs of suit to obtain that judgment and collection of it, and thereon to release all errors and to waive all rights of appeal and stays of execution. The foregoing warrant of attorney will survive any judgment, it being understood that should any judgment be vacated for any reason, the holder hereof will be restored to the same rights and the Makers subject to the same obligations as existed hereunder prior to the rendition of such vacated judgment.

WARNING - BY SIGNING THIS PAPER YOU GIVE UP YOUR RIGHT TO NOTICE AND COURT TRIAL. IF YOU DO NOT PAY ON TIME A COURT JUDGMENT MAY BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM YOU REGARDLESS OF ANY CLAIMS THAT YOU MAY HAVE AGAINST THE CREDITOR OR PAYEE FOR ANY CAUSE.


John V. DePalma, Maker


Cheryl DePalma, Maker